

REMARKS

With entry of this amendment, claims 2-5 and 9-13 have been cancelled, and claims 60-67 have been newly added. Claims 1, 7, 8, 14, 15, 20-28, 30-32 35-38, 42-44, and 47-67 remain pending in this application. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Claim Rejections-35 U.S.C. §102

Claims 1, 7, 8, 14, 15, 20, 27, 28, 30-32, 35-38, 42-44, and 54 stand rejected under 35 U.S.C. §102(e), as being anticipated by U.S. Patent No. 6,771,996 ("Bowe"). Applicant respectfully traverses this rejection, since Bowe does not disclose each and every element required by these claims.

In particular, independent claims 1 and 8 have been amended to respectively include the limitations of now-cancelled claims 2 and 9, which the Examiner indicated as reciting patentable subject matter.

With respect to independent claims 27 and 37, Bowe does not disclose circumferentially arranging the one or more ablative elements within the vessel or pulmonary vein. While the Examiner has concluded that the ablative elements is "capable of being made smaller and sized to fit within the vein," and that "the intended use of the Bowe device does not alter such a capability," the "intended use" concept is reserved circumferentially arranged within the pulmonary for apparatus claims—not method claims, such as claims 27 and 37. The Examiner should note that "under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform

the method claimed, then the method claimed will be considered to be anticipated by the prior art device." (See M.P.E.P. §2112.02)(emphasis added).

As such, even if it were possible for the ablative elements 94 of the ablation catheter 82 of the Bowe device to be placed into a pulmonary vein does not mean that the process recited in claims 27 and 37 are anticipated by the Bowe device or the disclosure thereof. That is, in the normal and usual operation of the Bowe device, the ablative elements 94 remain outside of the pulmonary vein around the ostium (see col. 10, lines 65-67).

Thus, to the extent that the tendon 85 is used to decrease the diameter of the arc of the ablation catheter 82, in the normal and usual operation of the Bowe device, the arc of the ablation catheter 82 would be made much bigger than the ostium of the pulmonary vein, such that when the tendon 85 is pulled, the decreased arc of the ablation catheter 82 would still fit outside of the ostium of the pulmonary vein. Therefore, Bowe does not inherently disclose the processes recited in claims 27 and 37.

Thus, Applicant submits that claims 1, 7, 8, 14, 15, 20, 27, 28, 30-32, 35-38, 42-44, and 54 are not anticipated by Bowe, and as such, respectfully request withdrawal of the §102 rejection of these claims.

Allowable Subject Matter

Applicant graciously acknowledges the allowance of claims 21-26 and 47-49. Applicant graciously acknowledges the Examiner's indication that claims 2, 4, 5, 9, 11, and 12 recite patentable subject matter. As such, the limitations of now-cancelled claims 2 and 9 have been respectively incorporated into claims 1 and 8, as discussed above, and now-cancelled claims 4 and 11 have been respectively rewritten as newly added claims 60 and

63. While Applicant graciously acknowledges the Examiner's indication that claims 50-53, and 55-59 recite patentable subject matter, these claims have not been rewritten in independent format, since it is believed that independent claims 27 and 37 from which they respectively depend are patentable over the prior art.

Conclusion

Based on the foregoing, it is believed that all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (949) 724-1849.

Respectfully submitted,

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